

**PT 00-15**

**Tax Type: Property Tax**  
**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**VETERANS OF FOREIGN WARS  
POST #7448,  
APPLICANT**

**v.**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE**

**Docket No: 98-PT-0075  
(97-49-213)**

**Real Estate Exemption  
For the 1997 Tax Year**

**P.I.N. 04-09-408-017**

**Lake County Parcel**

**Robert C. Rymek  
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION**

**SYNOPSIS**

This proceeding raises the issue of whether Lake County Parcel Index Number 04-09-408-017 (hereinafter the “subject property”) should be exempt from 1997 real estate taxes under Section 15-145 of the Property Tax Code which states:

“All property of veterans’ organizations used exclusively for charitable, patriotic and civic purposes is exempt [from real estate taxation].” 35 ILCS 200/15-145 ( 1996).

This controversy arose as follows:

The applicant, Veterans of Foreign Wars Post #7448, filed an application for Property Tax Exemption with the Lake County Board of Review. The Board reviewed the applicant’s complaint and on February 20, 1998, recommended that the applicant’s exemption request be granted. On April 23, 1998, the Illinois Department of Revenue

(hereinafter the “Department”) rejected the Board’s recommendation and denied the exemption concluding that the subject property was not in exempt use. The applicant filed a timely appeal from the Department’s denial of exemption. On February 16, 2000, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence it is recommended that the subject parcel not be exempted from 1997 real estate taxes.

### **FINDINGS OF FACT**

1. Dept. Ex. No. 1 and Dept. Ex. No. 2 establish the Department’s jurisdiction over this matter and its position that the subject parcel was not in exempt use during 1997.
2. The applicant is a chartered veteran’s organization. App. Ex. No. 5.
3. The applicant’s Congressional Charter and Bylaws provide: “That the purpose of this corporation shall be fraternal, patriotic, historical and educational; to preserve and strengthen comradeship among its members, and to assist worthy comrades to perpetuate the memory and history of our dead; to assist their widows and orphans; to maintain true allegiance to the government of the United States of America, and fidelity to its Constitution and laws; to foster true patriotism [.]” Tr. p. 17.
4. The applicant acquired the subject property in 1985 via a Trustee’s Deed. App. Ex. No. 4.
5. The subject property is located at 1112 Sheridan Road in Winthrop Harbor. Dept. Ex. No. 1.

6. The subject property is improved with three buildings: a 6,301 square foot main building; a 864 square foot picnic building; and 80 a square foot storage building. Dept. Gr. Ex. No. 1.
7. The first floor of the main building has a bar and is used as the applicant's "canteen." The first floor bar is open daily. Tr. pp. 19-20; Dept. Ex. No. 1.
8. The second floor of the main building is a meeting hall, which also has a bar. The hall is used for "public meetings, weddings, receptions, or just about anything that the village needs to use it for." Tr. p. 19.
9. The applicant rents the hall to people for weddings or receptions approximately twice per month. Post members are charged less than the general public. Tr. p. 19; Dept. Ex. No. 1.
10. The applicant financial records show that it spends approximately \$4,000 per month on bar supplies. The applicant's largest monthly expense is for bar supplies. Bar sales represent the applicant's largest source of income. Tr. p. 20; App. Gr. Ex. No. 1.
11. The applicant also hosts breakfasts and spaghetti dinners, which are open to the community. Tr. p. 26.
12. The applicant holds its meetings and the meetings of its women's auxiliary at the second floor of the main building approximately two times a month. Tr. pp. 27-28.
13. The applicant also holds a monthly board meeting on the first floor of the main building. Tr. p. 28.

14. The applicant is involved with a variety of charitable activities throughout the year. For example, they donate money for scholarships, help raise money for the March of Dimes, and pass out food baskets at Thanksgiving and Christmas. Tr. pp. 21-24.

15. The applicant also allows the subject property to be used for various special events during the year, such as a Great Lakes Naval Base picnic and a ham radio operator preparedness test. Tr. p. 26.

### **CONCLUSIONS OF LAW**

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant an exemption from property taxes for the 1997 assessment year. Accordingly, under the reasoning given below, the determination by the Department that the subject parcels do not qualify for exemption should be affirmed. In support thereof, I make the following conclusions:

The applicant is seeking a property tax exemption under Section 15-145 of the Property Tax Code, which provides:

“All property of veterans’ organizations used exclusively for charitable, patriotic and civic purposes is exempt.” 35 ILCS 200/15-145 (1996).

Thus, to be entitled to the property tax exemption, the applicant must show that: (1) the subject property was owned by a veteran’s organization; and (2) the subject property is used exclusively for charitable, patriotic and civic purposes. North Shore Post No. 21 of the American Legion v. Korzen, 38 Ill. 2d 231 (1967). The applicant bears the burden of proving the right to exemption and all debatable questions are resolved in favor of taxation. *Id.*

Based upon the evidence presented at the hearing, it is readily apparent that the applicant is a veteran's organization and that it owned the subject property in 1997. However, after carefully reviewing the record, I conclude that the applicant has failed to satisfy the second requirement of Section 15-145, because the evidence presented did not establish that the subject property was "used exclusively for charitable, patriotic and civic purposes." (Emphasis added) 35 ILCS 200/15-145 (1996). The word "exclusively," when used in Section 15-145 and other tax exemption statutes means "the primary purpose for which property is used and not any secondary or incidental purpose." Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1987); Pontiac Lodge No. 294, A.F. & A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (1993).

Here, the evidence establishes that in 1997 the subject property was used primarily for the social and recreational activities of the applicant's members and others whom the applicant allowed to use the premises. Although portions of the subject property may on occasion have been used for charitable, patriotic, and civic purposes, the majority of the use of the subject property was for social and recreational purposes such as wedding receptions, organizational dinners, and other such events which our supreme court has previously concluded constitute non-exempt use. See, North Shore Post No. 21, *supra* at 235 ("The record shows that the premises are used primarily for the following purposes: Meetings; both business and social, of the plaintiff and various auxiliaries; wedding receptions of members of the post and third parties; dinners and social parties for the plaintiff and its auxiliaries; \*\*\* a bar is maintained primarily for members[.] None of these uses are *per se* patriotic and charitable. Although the plaintiff and its auxiliaries engage in activities which are public spirited and laudable \*\*\* they do not constitute charitable purposes, however desirable or beneficial.); see also Rodgers Park Post No.

108 v. Brenza, 8 Ill. 2d 286, 289 (1956) (Exemption denied where premises had a canteen used by members of the legion and where “The premises are used by the Legion itself and also by the Women’s Auxiliary and the Junior Auxiliary of the Legion. The Legion holds regular meetings in the auditorium twice a month. On occasions, the auditorium is used by other organizations such as the Boy Scouts, the City of Hope and other charitable and religious organizations for meetings, dances and weddings.”).

Here, as in the Northshore Post No. 21 case, the applicant does engage in some laudable and charitable activities. Nevertheless, as in Northshore Post No. 21, the property at issue does not qualify for exemption because it was primarily used for social as opposed to charitable activities.

WHEREFORE, for the reasons set forth above, I recommend that the subject parcel be denied exemption from 1997 real estate taxes.

March 22, 2000  
Date

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Robert C. Rymek  
Administrative Law Judge